

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1717.01
COMPLAINT INVESTIGATOR: Sandie Scudder
DATE OF COMPLAINT: March 22, 2001
DATE OF REPORT: April 27, 2001
REQUEST FOR RECONSIDERATION: yes
DATE OF CLOSURE: June 14, 2001

COMPLAINT ISSUES:

Whether the Portage Township Schools and the Porter County Educational Interlocal violated:

-511 IAC 7-27-7(a) with regard to the school's alleged failure to implement the student's individualized education program (IEP) as written, specifically, failing to provide physical therapy.

-511 IAC 7-27-4(a)(3) with regard to the school's alleged failure to convene a case conference committee (CCC) meeting upon the parent's request.

During the course of the investigation, an additional issue was identified, which is:

-511 7-23-1(f)(2) with regard to the school's alleged failure to comply with a request from a parent to inspect and review the record before any meeting regarding an IEP.

This complaint report was originally due on April 20, 2001. Due to the need for additional information, the deadline for the report was extended to April 27, 2001.

FINDINGS OF FACT:

1. The Student is 18 years old and eligible for special education and related services as a student with a severe mental disability and a communication disorder.
2. The Student transferred to the current school ("School") on October 30, 2000. The CCC Report/IEP dated October 30, 2000, indicates that the Student's IEP (from the previous school) was amended and that for physical therapy, the Student would receive 30 minutes per week of "integrated consultation." The CCC Report provides no description of "integrated consultation." The Interlocal Supervisor states, in her written response, "Integrative consultation is defined as appropriate for student who, the case conference determines have reached their maximum capability of physical functioning, but have the potential for progression or regression requiring periodic physical evaluation of status. The physical therapist works collaboratively with the classroom teacher and trained staff in the planning and implementation of this service. These services are designed to assist the student in various motor and positioning activities for physical functioning within the school environment."
3. On November 7, 2000, the Complainant notified the School that the Student would be absent from school indefinitely; the Student had suffered a head trauma and was hospitalized in Chicago. The Student attended School only three days prior to the hospitalization. The Complainant advised

School personnel that she would contact the School when the Student was out of the hospital and sufficiently recovered to attend school. The Student returned to School on February 21, 2001.

4. The CCC convened on February 21, 2001. The Complainant provided a statement from one of the Student's doctors, dated February 14, 2001, that the Student may return to school and "all his previous therapies." Another doctor's statement, dated February 21, 2001, indicated that the Student had a healed broken leg and could now bear weight on the leg. The CCC determined that a PT evaluation needed to be conducted to identify any changes in the Student's PT needs. The CCC Report states that a PT evaluation will be conducted within sixty instructional days and that the current IEP remains in effect. The Student attended school from February 21 through March 9, 2001. The PT evaluation was initiated on February 21 and continued on February 22, February 27, and March 6. The Student has been absent from school since March 12, 2001; however, the PT evaluation was completed at the Student's home on April 10, 2001. The physical therapist's logs indicate she provided integrative consultation to staff in the Student's classroom on February 21, February 27, and March 6, 2001.
5. The Complainant received notification of a CCC, dated March 14, 2001, stating a CCC was scheduled for April 12, 2001. The Complainant wanted a CCC convened before April 12, 2001, to address services for the Student at home, prior to the Student returning to school, and called the Director of Special Education on March 14, 2001, and the Interlocal Supervisor on March 16, 2001, to request an earlier CCC date. The Complainant was told each time she would need to wait for the scheduled CCC on April 12, 2001. The Interlocal Supervisor and the Director of Special Education acknowledge receiving a call from the Complainant requesting an earlier conference date.
6. The Complainant sent letters to the Interlocal Supervisor on March 21, 23, and 26, 2001, reiterating her request for an earlier date for the CCC meeting. The Interlocal Supervisor responded to the Complainant with a letter dated March 27, 2001, stating that after the school staff returned from spring break (April 2), the availability of an earlier conference date would be investigated. Spring break was the week of March 26, 2001. The School states that staff schedules could not be rearranged to accommodate a CCC prior to April 12, 2001. The Interlocal Supervisor sent a written notification to the Complainant dated April 2, 2001, reaffirming the conference date of April 12, 2001. The Complainant states she did not receive this notice. However, in her letter to the Interlocal Supervisor on April 4, 2001, the Complainant states "I notice you have had the opportunity to send four notification letters to me, each bearing different purposes for this conference as well as persons in attendance." The Complaint sent letters to the Interlocal Supervisor on April 3 and 4, 2001, continuing her request for an earlier CCC date.
7. In a letter sent to the Interlocal Director, the Complainant requested to review the Student's records before the conference scheduled for April 12, 2001. The Complainant and her advocate reviewed the educational records on April 5, 2001, and asked to receive copies of the Student's records prior to the conference scheduled on April 12, 2001.

CONCLUSIONS:

1. Findings of Fact #2, #3, and #4 indicate the Student's IEP specified 30 minutes of PT integrated consultation per week, but the Student attended school only three days prior to an extended absence. The Student returned to school, and attended 13 days prior to another extended absence. Although a PT evaluation was initiated during this time, there was no change in the IEP regarding the provision of the integrated consultation. The Physical Therapist provided integrative consultation services three times during those 13 days. Therefore, no violation of 511 IAC 7-27-7(a) occurred.

2. Findings of Fact #5 and #6 indicate that, upon receiving the March 14, 2001, notice of CCC meeting scheduled for April 12, 2001, the Complainant contacted the School immediately and requested an earlier date. The Complainant wanted to address services to the Student during his continued absence from School. The Complainant was told the CCC would convene on April 12. The Complainant made five additional requests for an earlier CCC date. No earlier date was arranged. Therefore, a violation of 511 IAC 7-27-4(a)(3) occurred.
3. Finding of Fact #7 reflects that the Complainant and her advocate were provided access to inspect and review the Student's educational records a week prior to the CCC meeting. The School was not required to provide the Complainant or her advocate with a copy of the Student's educational record because there is no pending due process hearing. Therefore, no violation of 511 IAC 7-23-1(f)(1) is found.

The Department of Education, Division of Special Education requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Portage Township Schools and the Porter County Education Interlocal shall:

1. Convene the CCC and determine the Student's need for compensatory services for the interruption in services resulting from the delay in convening the CCC at the parent's request. A copy of the CCC Report/IEP shall be submitted to the Division no later than June 8, 2001. The corrective action to consider the need for compensatory physical therapy services is rescinded.
2. Submit an assurance statement that, upon a parent's request for a CCC meeting, a CCC will be convened as quickly as possible, regardless of whether a CCC has already been scheduled for a different date. The assurance statement must be submitted no later than June 8, 2001.